

REMARKS

Claims 1-10 and 14-19 have been examined on their merits.

The Patent Office objects to claims 2-10 as being dependent upon a rejected base claim. Applicant thanks the Patent Office for indicating that claims 2-10 would be allowed if rewritten in independent form. However, instead of rewriting claims 2-10 in independent form, Applicant respectfully traverses the prior art rejections for the reasons set forth below.

Claims 1-10 and 14-19 are all the claims presently pending in the application.

1. Claims 1 and 11-19 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Fayad *et al.* (U.S. Patent No. 6,697,776). Applicant traverses the § 102(e) rejection of claims 1 and 14-19 for at least the reasons discussed below.

Fayad *et al.* fail to teach or suggest at least a system that determines the quality of a radio link based on a determined net bit rate, as recited in claim 1. Fayad *et al.* discloses, *inter alia*, encoding of analog signals (*e.g.*, voice, music) by converting the analog signals into digital signals. *See, e.g.*, col. 1 lines 15-20 of Fayad *et al.* More particularly, Fayad *et al.* is directed to the problem that systems optimized for encoding of speech signals are not optimized for encoding of non speech signals, such as music. *See, e.g.*, col. 1 lines 29-31. To solve this problem, Fayad *et al.* disclose a system where the bit rate encoding can be changed dynamically to provide encoding for different types of signals at bit rates, and encoding methods optimized to properly reconstruct the input signal whether speech or non-speech. *See, e.g.*, col. 2 lines 1-9 of Fayad *et al.*

The net bit rate recited in independent claim 1 of the present invention is clearly different from the bit rate disclosed in Fayad *et al.* In the context of the present invention, the meaning of net bit rate is well known for the skilled person, and is specifically defined at page 8, lines 2-4 of the instant specification.¹ While the Patent Office cites Fayad *et al.* as disclosing an optimum bit rate², encoding a speech signal at G.732.1 at 6.4 kilobits/second³, transmitting an audio signal at 8 kilobits/second pursuant to a G.729A standard⁴, or switching an encoding standard to G.726 ADPCM at 24, 32, or 40 kilobits/second⁵, none of the cited portions of Fayad *et al.* teach or suggest the net bit rate recited in claim 1 and defined in the specification at page 8, lines 2-4. All the above cited portions of Fayad *et al.* are related to encoding rates for audio signals, and none of the encoding rates are related to determining a net bit rate to be used for evaluating the quality of a radio link, as that phrase is used in the context of claim 1.

With reference to Figure 1 of Fayad *et al.*, contrary to the Patent Office's contention, the curves shown relate to encoding rates and the quality of the signal based on the encoding rate. There is no teaching or suggestion that the bit-rate axis is related to a net bit rate, as that phrase is defined in the instant specification and used in claim 1. In addition, the Patent Office has not shown that bit-rate axis represents a bit rate that is obtained after subtracting everything that is

¹ "The net bit rate R_{net} is the bit rate obtained after deducting from the gross bit rate everything that is not useful to the user, such as the redundancy introduced by the coding or blocks received incorrectly."

² Col. 3, line 28 of Fayad *et al.*

³ *Id.* at col. 3, lines 47-48.

⁴ *Id.* at col. 4, lines 63-64.

⁵ *Id.* at col. 5, lines 2-4.

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not useful (*e.g.*, redundancy introduced by the coding or incorrectly received blocks) from a gross bit rate of a received signal.

Based on at least the foregoing reasons, Applicant submits that independent claim 1 is allowable over Fayad *et al.*, and respectfully requests that the Patent Office reconsider and withdraw the § 102(e) rejection of claim 1.

With respect to independent claims 14 and 17, Applicant submits that independent claims 14 and 17 are allowable for at least reasons analogous to those discussed above with respect to claim 1. Applicant further submits that claims 15, 16, 18 and 19 are allowable as well, at least by virtue of their dependency from claims 14 and 17, respectively. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(e) rejection of claims 14-19.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

An extension of time is requested, and the statutory fee is being paid through the Electronic Filing System

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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